

## **Chapter V**

### **Supplemental Security Income**

#### *Program Summary*

#### **What Is Supplemental Security Income?**

The Supplemental Social Security Income (SSI) program provides monthly cash payments to elderly, blind, or disabled people who have limited income and financial resources.

#### **Who Can Get Supplemental Security Income?**

Persons age 65 or older, disabled persons, and blind persons who meet the personal and financial eligibility guidelines described in this chapter are eligible to receive SSI benefits.

#### **How Does a Person Get Supplemental Security Income?**

A person must file an application with the Social Security Administration. An applicant may make an appointment to apply either by phone or in person by calling 1-800-772-1213 or may apply without an appointment at a local district office of the Social Security Administration.

#### **How Much SSI Can a Person Get?**

The amount of an individual's SSI benefits depends on whether he or she is married and how much income he or she has. In 2007, the maximum amount of SSI benefits is:

**\$ 623** per month for a single person.

**\$ 934** per month for a married eligible couple.

#### **What Are the SSI Resource Limits?**

An individual is not eligible for SSI if his or her countable resources exceed **\$2,000** (**\$3,000** for a married couple). Resources are the things that an individual owns (such as cash, real estate, personal belongings, bank accounts, stocks and bonds) and that can use for his or her support (shelter, food, etc.). An individual whose resources exceed the SSI limit may be able to receive SSI benefits while he or she is trying to sell the excess resources but this exception is limited and may require repayment of the benefits.

#### **How Long Does It Take to Get Benefits?**

There are no limits within which an application must be processed. If the eligibility determination is reasonably straightforward, it may take only a few weeks. If it is complicated by either a disability question or an unusual financial question, it could take months. Generally, the process can take up to three to five months, depending on the need to retrieve your medical records or any other evidence needed to make a decision. If the decision has to be appealed, it can take years.

## Supplemental Security Income (SSI)

### Introduction

The Supplemental Security Income (SSI) program was begun in 1974 as a national program to provide a subsistence level income to aged, blind, and disabled persons with limited income and resources. It replaced state aid programs in the 50 states and is now uniform throughout the country (except for state supplements in some states).

SSI is administered both nationally and locally by the Social Security Administration. SSI, however, is different from Social Security retirement, disability, and survivors benefits. Eligibility for Social Security retirement, disability, and survivors benefits is based on an individual's employment and payment of Social Security taxes, not on financial need. Poor elderly, blind, or disabled persons are not required to have paid Social Security taxes in order to be eligible for SSI benefits.

### Applying for SSI

To apply for SSI, an applicant may choose any of three options:

1. walk in to a local Social Security district office (or another office designated by the Social Security Administration (SSA) to receive applications) and request the opportunity to apply;
2. call the Social Security Administration at **1-800-772-1213** to request an appointment at the local office; or
3. call either the toll-free number or the local district office and request that a phone application be taken. After a phone interview, the applicant will be mailed the application form. The applicant must sign it and return it to the local district office.

An individual who believes that he is she is eligible for SSI benefits should *apply as soon as possible* because SSA will not pay SSI benefits to him or her for the time before he or she applied for benefits (even if he or she would have been eligible to receive SSI benefits before he or she applied). Usually, the date an applicant signs an application is considered the applicant's **filing date** for SSI but an earlier protected filing date may be given for phone applications. If it is eventually determined that the applicant is eligible, he or she will receive SSI benefits retroactive to the first day of the month following his or her application filing date or the first day of the month after the applicant's filing date in which all the eligibility requirements were met.

If an individual calls SSA to make an appointment to apply and files an application within sixty (60) days, SSA will use the date of the call as the application filing date. Applicants who make an appointment by phone should make a record of the date of the initial phone call and confirm it in writing to ensure that SSA uses the correct filing date. If an applicant can show that he or she would have applied sooner but for incorrect information given by someone with the SSA, the filing date can be changed to reflect the correct application date.

There are no time standards for processing SSI applications. Depending on the complexity of the case, processing can take months. It is worth a call to the district office to determine if the application is being delayed because the applicant has not provided certain information. An applicant should make written notes of any phone calls.

### **Presumptive Disability or Blindness Payments**

If an individual has applied for SSI benefits on the basis of disability or blindness (not age) and SSA is waiting on a decision by the state's Disability Determination Service, the applicant may be eligible to receive up to six months of SSI benefits pending a final determination regarding his or her eligibility for SSI if he or she is presumptively blind or presumptively disabled and meets all of the other eligibility requirements for SSI. **Presumptive disability or blindness** means a high degree of probability that the applicant will be determined to be blind or disabled based on either personal observation by local office personnel or less medical evidence than is required for a final decision on disability eligibility. Presumptive disability payments will be recouped from the applicant's regular SSI benefits if the application is approved, but do *not* have to be repaid if the application is denied.

### **Emergency Advance Payments**

An applicant who has been determined eligible for SSI (including benefits based on presumptive disability or blindness) may receive an emergency advance payment if his or her SSI benefits are delayed or not received and he or she faces a **financial emergency**. Financial emergency means that the applicant has insufficient income or assets to meet an immediate threat to health or safety. SSA will make only one emergency payment.

The maximum emergency advance payment you may receive is the smaller of:

- The SSI federal benefit rate;
- The total amount of the benefits due; or

- The amount requested for the financial emergency.

An emergency advance payment must be repaid by withholding the amount of the emergency payment from the recipient's SSI benefits.

### **Immediate Payments**

A person who has applied for or is receiving SSI benefits is eligible for immediate payment if he or she:

- Is due SSI benefits (which may be presumptive disability or blindness payment) that are delayed or not received; and
- Is facing a "financial emergency."

The maximum amount of the immediate payment is \$999. SSA will make only one immediate payment within a thirty-day period. SSA will recover the immediate payment by withholding the amount of the immediate payment from the recipient's SSI benefits.

### **Provisional Payments and Expedited Reinstatement**

If a SSI disability recipient's benefits are terminated because he or she worked and had earnings, the recipient can request to have his or her benefits reinstated without having to complete a new application if the recipient:

- Is unable to work or perform *substantial gainful activity* because of an impairment that is the same or related to the impairment that allowed him or her to receive SSI benefits; and
- Makes the request within five years from the month his or her SSI benefits ended.

SSA may pay provisional benefits to an applicant for up to six months while it determines whether his or her benefits should be reinstated. If SSA pays provisional benefits but denies the application, it usually not ask that the provisional benefits be repaid.

## **Nonfinancial Eligibility Requirements**

### **Age, Blindness, or Disability**

In order to receive SSI, an individual must be:

- **Aged**, *or*
- **Blind**, *or*
- **Disabled**.

An individual is **aged** if he or she is at least **65 years old**.

An individual is **blind** if he or she has:

- A central vision acuity of 20/200 or less in the better eye, even while wearing a corrected contact lens or glasses in that eye; or
- A limitation in the field of vision of the better eye, so that he or she has a contraction of peripheral vision fields to 10 degrees from the point of fixation *or* the widest diameter of his or her visual field subtends an angle no greater than 20 degrees.

An individual who has a visual impairment that does not fall under the above definition of blindness may still be eligible for SSI benefits if he or she is disabled as described below.

An individual is disabled if he or she has a medically determinable physical or mental impairment that:

- can be **verified by a doctor** on the basis of lab tests, physical examination, or other objective medical procedures, *and*
- has lasted, or is expected to last a minimum of **twelve consecutive months** or result in death, *and*
- prevents the individual from doing his or her previous work or any other **substantial gainful activity** (defined, in 2007, as the ability to earn at least \$900 per month). In determining whether a person can engage in substantial gainful activity, factors such as age, education, and work experience may be taken into account.

Proving that an individual is disabled requires specific medical and vocational data to show that the individual's physical or mental condition prevents him or her from working. Individuals who apply for SSI disability benefits often need the assistance of trained advocate (such as a lawyer, paralegal or other representative who specializes in Social Security law).

### **Citizenship, Immigration Status, and Residency**

In order to receive SSI benefits, an individual must:

- be a **U.S. citizen** (*or* a **qualified alien** who meets the additional eligibility requirements described below); *and*
- be a **resident** of one of the 50 states, including the district of Columbia and the Northern Mariana Islands, with the intent of living within the geographic limits of the United States (and not absent from the U.S. for a full calendar month or more than 30 consecutive days).

Noncitizens are not eligible for SSI unless they are **qualified aliens** *and* meet one of the eligibility requirements described below (or they are noncitizen members of a federally recognized Indian tribe or American Indians born in Canada and living in the U.S. under a specific provision in the federal immigration law). The term *qualified alien* includes immigrants:

- who are lawfully admitted for permanent residence (permanent resident aliens who have a “green card”);
- who have been granted conditional entry or asylum under the federal immigration law, have been “paroled” into the U.S. for at least one year under the federal immigration law; have been admitted as a refugee or a Cuban or Haitian entrant under the federal immigration law; or whose deportation has been withheld under the federal immigration law;
- under certain circumstances, who have been subjected to battery or extreme cruelty while in the U.S. (or who is the parent or child of a person who has been subjected to battery or extreme cruelty while in the U.S.).

A noncitizen who is a qualified alien is *not* eligible for SSI unless he or she:

- is lawfully residing in the U.S. *and* was receiving SSI benefits on August 22, 1996; OR
- is lawfully admitted for permanent residence *and* has 40 qualifying calendar quarters of work (*and* has lived in the U.S. for at least five years if he or she entered the U.S. for the first time on or after August 22, 1996); OR
- is currently on active duty in the U.S. Armed Forces, or is an honorably discharged veteran who was not discharged because he or she was an alien (or is the spouse, widow, widower, or dependent child of certain U.S. military personnel); OR
- is blind or disabled (even if over 65) and was lawfully residing in the U.S. on August 22, 1996; OR
- was granted status as a refugee, asylee, alien whose deportation was withheld, Cuban or Haitian entrant, or Amerasian immigrant under the federal immigration law within seven years of applying for SSI (but eligibility for SSI under this category is limited to a maximum of seven years).

## **Institutionalized Persons**

Special rules apply for persons living in institutions. The availability of benefits depends on whether the institution is public or private, and whether Medicaid is paying a portion of the expenses.

Residents of **public institutions** (i.e., facilities operated by the government which provide food, shelter and some kind of treatment or services) are generally ineligible for SSI, *unless*:

- The institution is a public emergency shelter or a “safe haven” for the homeless
- The institution is a community residence for no more than 16 residents
- The institution is a medical facility and will receive at least 50% reimbursement from Medicaid (an SSI recipient in a medical facility is eligible to receive only \$30 in monthly SSI benefits).
- The individual is not expected to be institutionalized for more than three months, and is maintaining his or her home.

Individuals who are incarcerated in prisons or jails are *not* eligible for SSI.

Residents of **private institutions** are generally eligible for SSI unless the institution is a medical or psychiatric facility and will receive at least 50% reimbursement from Medicaid.

## **Other Eligibility Requirements and Disqualifications**

An individual who receives SSI benefits must agree to apply for other cash benefits which he or she may be entitled.

A **fugitive felon** (someone who is the subject of an outstanding felony warrant or probation violation warrant) is ineligible for SSI. However, seeking a good cause exception or legal challenge should be considered in such cases if the warrant cannot be resolved.

A person who **transfers assets** for less than their fair market value with the intent of qualifying for SSI may be ineligible to receive SSI for up to thirty-six months.

## **Financial Eligibility Requirements**

An applicant is financially eligible for SSI benefits if his or her **net countable income** is less than the SSI income limit *and* the value of his or her **countable resources** is less than the SSI resource limit.

## **Income**

An individual is not eligible for SSI if his or her **net countable income** is more than the **SSI income limit** (**\$623** per month for a single person or **\$934** per month for an eligible married couple in 2007; **\$637** and **\$955** per month in 2008).

If an individual is eligible for SSI, the amount of his or her monthly SSI benefit is determined by subtracting his or her **net countable income** from the maximum monthly SSI benefit (**\$623** per month for a single person or **\$934** per month for an eligible married couple in 2007, **\$637** and **\$955** per month in 2008). For example, if an eligible single individual has a net monthly countable income of \$423, he or she will receive a monthly SSI benefit of \$200 (\$623 minus \$423 equals \$200) in 2007.

A married couple's eligibility for SSI and the amount of his or her (or their) SSI benefits generally is based on the married couple's combined net countable income if they are living together and are both aged, blind, or disabled. (If a married person is living with a spouse who is not aged, blind, or disabled, his or her SSI eligibility and the amount of his or her monthly SSI benefit are based on his or her net countable income plus the net countable deemed income of his or her ineligible spouse under a complex budgeting formula.)

## **Earned, Unearned, Deemed, and In-Kind Income**

**Income** is defined as anything received in cash or in kind in a calendar month that can be used to meet food, shelter, or clothing needs. Not all income is counted, and certain deductions apply. Income includes **earned income**, **unearned income**, **deemed income**, and **in-kind income**.

**Earned income** includes wages or earnings from self-employment.

**Unearned income** is any income other than wages or earnings from self-employment. It includes Social Security benefits, pensions, state disability payments, unemployment benefits, interest income, and cash from friends and relatives.

**Deemed income** is all or part of the net countable income of the ineligible spouse of an SSI applicant or recipient (or of an "essential person" in the case of persons who received assistance under a pre-SSI state program for the aged, blind, or disabled or of the applicant's or recipient's sponsor if the applicant or recipient is an alien). In the case of an ineligible spouse, a deduction of \$311 in 2007 (the difference between the SSI benefit amount for a married couple and the SSI benefit amount for an individual) may be allowed in determining the amount of the ineligible spouse's net countable income that will be deemed to the spouse who is applying for or receiving SSI.



**In-kind income** is the value of food or shelter that an SSI applicant or recipient receives from another person for free or for less than its fair market value. When an SSI recipient is living with another person, other than a spouse or minor child, who provides food or shelter, or when a non-household member buys food or shelter for the recipient, the in-kind income is counted in determining his or her eligibility for SSI or the amount of his or her monthly SSI benefit. In general the SSI income limit and maximum monthly SSI benefit amount will be reduced by one-third. This rule will not apply if everyone in the household is a recipient of public assistance or if the SSI recipient pays a pro rata share of the food and shelter expenses, has either fair rental liability or an ownership interest in the dwelling, can prove that the in-kind support is a loan, or (in some cases) can show that the value of the food or shelter is less than one-third of the maximum monthly benefit.

### Countable Income

**Countable income** means all of an individual's income other than **excluded income**. Excluded income (as described below) is *not* considered in determining an individual's eligibility for SSI or the amount of his or her monthly SSI benefits.

**Net countable income** means an individual's countable income *minus* the income **deductions** that are described below. An individual's eligibility for SSI and the amount of his or her monthly SSI benefit are based on his or her net countable income.

Countable income includes:

- Gross wages, tips, commissions, etc. prior to any deductions;
- Net earnings from self-employment (gross income minus operational expenses)'
- Wages from work in a sheltered workshop;
- In-kind payments in lieu of wages (i.e., free rent or meals from an employer).
- Social Security survivors, disability or retirement, railroad retirement benefits, veterans benefits or any other type of public or private pension;
- Annuities, payments from insurance companies that individuals receive based on policies for which they paid;
- Workers' compensation;
- Unemployment insurance;

- Proceeds from a life insurance policy payable as a result of another's death, or other death benefit, minus the expenses of the deceased's last illness and burial expenses if paid by the recipient;
- Gifts, inheritances, prizes, or awards;
- Alimony or spousal support, received in cash or in-kind;
- Rental income, minus operational expenses;
- Dividends and interest from investments; and
- Net countable deemed income of an ineligible spouse.

### **Excluded Income**

The following types of income are *not* considered in determining an individual's countable income:

- Irregular or infrequent income (no more than \$10 per month of earned income or \$20 per month of unearned income);
- The value of Food Stamps or surplus commodities;
- The value of medical services, including the food and shelter received during a medical confinement;
- Amounts paid by a third party for bills owed by the recipient, unless the bill is for food, clothing or shelter;
- The proceeds of a loan that must be repaid;
- Insurance benefits under credit life or disability policies;
- Casualty loss insurance payments to compensate for damaged or destroyed assets;
- Payments related to subsidized housing, such as utility allowances or HUD Section 8 payments;
- Payments for supportive services or reimbursement of out-of-pocket expenses made to volunteers in programs such as Foster grandparents, senior health aides, senior companions, SCORE, VISTA, ACE, RSVP, etc;
- Income of a blind or disabled recipient if the income is needed to fulfill a Plan for Achieving Self-Support;
- Income and property tax refunds;
- Assistance based on need paid entirely from state or local funds;
- Earned Income Tax Credit payments;

- Home products used by the household (food grown and consumed by the household);
- Payments for medical care or insurance premiums made by any third party, including the payment of the Medicare Part B premium by Medicaid;
- Cash received from the sale of a resource (this is considered a resource);
- Gifts of domestic travel tickets;
- Interest accrued on excluded burial funds, and
- Income used for an approved **Plan for Achieving Self-Support** (a plan approved by SSA that allows the individual to retain additional income and resources that will be used to enable the recipient to meet an occupational goal and work).

### Income Deductions

**Net countable income** is determined by subtracting the following deductions from an individual's countable income:

- \$20 from unearned cash income (unless the income is based on need) or from earned income if there is less than \$20 in unearned income;
- \$65 from earned income;
- The cost of any impairment-related work expenses for disabled persons under age 65;
- Half the remainder of any earned income;
- The cost of any work expenses for blind recipients.

### Resources

**Resources** are defined as personal or real property that an individual or spouse:

- owns, *and*
- has the right, authority or power to convert to cash (if it is not already cash), *and*
- is not legally restricted from using for personal support and maintenance.

Even if an individual's income is less than the SSI income limit and he or she meets all of the other SSI eligibility requirements, he or she will not be eligible for SSI if the value of his or her countable

resources exceeds the SSI resource limit (**\$2,000** for an individual or **\$3,000** for a married couple).

**Countable resources** are those that are considered in determining whether the value of an individual's resources exceeds the SSI resource limit. **Excluded** resources are those that are not considered in determining the value of an individual's countable resources.

If the value of the countable resources owned by an individual on the first day of the month is more than the SSI resource limit, the individual is ineligible for the entire month. If an individual is eligible for SSI on the first day of the month, his or her receipt a sum of money or property that puts him or her over the SSI resource limit will not affect his or her eligibility if the money or property is received after the first day of the month and is spent or converted to an excluded resource before the first day of the next month.

The value of a countable resource is based on its **equity value**. , The equity value of a resource is the **current market value** of the resource (the price at which the resource could be sold on the open market in the particular geographic area) *minus* the amount of **encumbrances** on the property (liens, taxes, security interests, mortgages, loan balances, etc.). The current market value of a resource may be more or less than its **assessed tax value**.

### **Countable Resources**

Unless otherwise excluded, countable resources generally include:

- Real property not used as the home;
- Cash or bank accounts;
- Stocks, bonds, mutual funds, or other investments;
- Promissory notes, loans, and property agreements;
- Cash value of life insurance when the face value exceeds \$1,500;
- Cash received from the sale of a resource;
- Vehicles not otherwise excluded;
- Assets held in a revocable trust established by the SSI recipient (or spouse); and
- Assets held in an irrevocable trust established by the SSI recipient if payments from the trust could be made for the benefit of the SSI recipient.

## **Excluded Resources**

The following types of resources are **excluded** in determining an individual's eligibility for SSI:

- The home where the individual resides, together with all the land it sits on and related buildings;
- Funds obtained from the sale of the home, if used within three months to buy another home (this includes the value of a note received for the sale of the house, as long as the payments on the note are invested in another home);
- Household goods and personal items;
- Medical or rehabilitation equipment;
- Real property co-owned with others if the sale of the property would cause a loss of housing to a co-owner;
- Real property that an individual is making a reasonable effort to sell during a nine-month period of conditional benefits to be repaid;
- Any one automobile used for transportation;
- The cash surrender value of life insurance policies, if the total face value of all policies does not exceed \$1,500 (but see following exclusion for burial policies);
- \$1,500 each, for the recipient and spouse, in separately identifiable burial funds, which can include cash, the cash value of life insurance, revocable burial contracts or trusts, bank accounts, or other financial instruments;
- One burial space (or agreement which represents the purchase of a burial space) for the recipient and each member of his or her immediate family;
- Personal property essential to the recipient's self-support, up to a value of \$6,000, used to produce goods or services essential to the household;
- Income-producing real property with an equity value of not more than \$6,000 and earning a rate of return of at least six percent per year;
- Resources set aside by a blind or disabled individual necessary for participation in a Plan for Achieving Self-Support;
- Awards of retroactive SSI or Social Security benefits, for a period of six months following receipt;
- Federal disaster assistance;

- Cash or other resources received for the repair or replacement of lost, stolen, or damaged excluded resources, for a period of nine months after receipt;
- Pension funds, including IRAs and Keogh plans, owned solely by an ineligible spouse; and
- Assets held in a “Special Needs Trust.”
- Earned income tax credit refunds, for up to nine months.

### **Jointly-owned Resources**

If a financial account is held jointly in the name of an SSI recipient and someone else, the method for counting the money in the account depends on whether the co-owners are also recipients of SSI. When all the co-owners are recipients of SSI, each of them is presumed to own an equal share of the account. If none of the other co-owners is a recipient of SSI, then the account will be presumed to be owned solely by the SSI recipient and will all be counted as a resource belonging to the SSI recipient. This presumption of sole ownership can be rebutted, however, with evidence showing actual ownership of the funds in the account. Evidence could include records of who made the deposits, who made withdrawals, and how withdrawals have been spent.

If an account is titled solely in the name of an SSI recipient or applicant, all the funds will be considered to be owned by that individual. The Social Security Administration will not accept any evidence attempting to prove that the title holder does not own the funds in the account.

### **Conditional Benefits**

If an individual’s countable resources exceed the SSI resource limits, he or she may receive **conditional benefits** during a period of time that the excess resources are made available for sale. If the resources are sold, the conditional benefits must be repaid from the proceeds of the sale. The limit on the period of conditional benefits is three months (extendable to six) for personal property and nine months for real property. If personal property is not sold, the benefits are overpayments and the individual is not eligible. If real property is not sold, it can be excluded and benefits will continue for so long as the property remains on the market.

### **Transfer of Resources**

If an SSI recipient has transferred or disposed of resources for less than fair market value, he or she may be ineligible for SSI benefits for a period of up to 36 months. The penalty period is calculated by dividing the amount of the transferred assets by the maximum

monthly SSI payment (\$623 in 2007 for an individual). The result is the number of months (not to exceed 36 months) for which the individual will be ineligible for benefits. The penalty will not apply if it is determined that to apply it would work an undue hardship.

Certain transfers will not trigger a penalty. They include:

- Transfers that occurred more than three years before the individual's receipt of SSI benefits;
- Transfers to or for the benefit of the recipient's spouse;
- Transfers to a trust for the benefit of a recipient's blind or disabled child;
- Transfers to a trust for the benefit of a disabled individual who is under age 65;
- Transfers that were intended to be for fair market value;
- Transfers that were made exclusively for a purpose other than to qualify for SSI; and
- Transfers of the recipient's home to the recipient's spouse; the recipient's child, if the child is under age 21, blind, or disabled; the recipient's sibling, if the sibling had an equity interest in the house and was residing in the house for one year before the transfer; the recipient's child who was residing in the home for at least two years prior to the transfer and providing care for the recipient.

## **Amount and Payment of SSI Benefits**

SSI recipients receive a monthly check. The check supplements any other income available to the recipient, up to a monthly maximum.

The amount of a recipient's SSI benefits equals the **monthly maximum benefit** minus the recipient's **net countable income**. If the recipient has no other income, he or she will get the maximum amount. If the recipient has other unearned income, such as Social Security or Veterans benefits, he or she will receive the difference between his or her income and the maximum amount, plus \$20. If the recipient has other earned income, he or she will receive the difference between his or her net countable income and the monthly maximum.

### **Payment Levels**

The maximum SSI benefit amount is adjusted annually, usually in January. The **maximum monthly SSI benefit amounts** for 2007 and 2008 are:

2007	2008
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- |                     |       |       |
|---------------------|-------|-------|
| • single individual | \$623 | \$637 |
| • married couple    | \$934 | \$955 |

### **One-Third Reduction Rule**

In some cases, an individual or couple is eligible to receive only two-thirds of the maximum SSI benefit amount. This occurs when the recipient is receiving “in-kind” support and maintenance from another, such as free room and board. (This is discussed more fully in the Income section below.) The maximum monthly SSI benefit amounts for 2007 and 2008 for those subject to the one-third reduction are:

- |                     |       |       |
|---------------------|-------|-------|
|                     | 2007  | 2008  |
| • single individual | \$414 | \$425 |
| • married couple    | \$622 | \$637 |

### **Overpayments**

An overpayment occurs when an individual receives more in SSI benefits than he or she is eligible to receive. The amount of the overpayment is the difference between the amount he or she received and the amount he or she should have received.

The following are just some examples of circumstances that may result in overpayment:

- The recipient’s income is more than you estimated;
- The recipient’s living situation changes;
- The recipient’s marital status changes;
- The recipient’s countable resources exceed the SSI limit;
- The recipient is no longer disabled;
- The recipient does not report a change to SSA (on time or at all) as required; or
- SSA incorrectly figures the recipient’s benefits because of incomplete or incorrect information.

When SSA discovers the overpayment, it will send a notice to the recipient stating the amount of and reason for the overpayment and requiring that the overpayment be repaid within 30 days. The notice will:

- Propose to recover the overpayment by withholding all or part of the recipient’s future SSI benefits at the rate equal to 10 percent of the recipient’s total income;



- State the month in which the proposed withholding will start;
- Explain the recipient's appeal rights; and
- Explain how the recipient can ask SSA to have the overpayment reviewed or waived so he or she will not have to pay it back.

As noted above, the overpayment may be recovered by withholding the amount of the overpayment from recipient's future SSI (or Social Security) benefits (the amount withheld may not exceed 10% of the recipient's total income). An overpayment also may be collected by withholding all or part of the recipient's federal income tax refund if it is not repaid through a cash payment.

An overpayment may be recovered from the SSI recipient, the recipient's representative payee or eligible spouse, or the estate of the recipient or eligible spouse.

If a recipient believes that he or she was not overpaid, he or she may appeal the overpayment determination. If the recipient appeals within 10 days of receiving the notice of overpayment, SSA will not withhold his or her SSI benefits to recover the overpayment while SSA is making a decision on the appeal.

### **Waiver of Overpayments**

If a recipient has been overpaid, SSA will not require him or her to repay the overpayment (or will "waive" the overpayment) if two conditions are met:

- The recipient is found to be **without fault** in causing the overpayment, *and*
- The recipient cannot pay back the overpayment because he or she needs the money to meet his or her ordinary living expenses.

A recipient of SSI is presumed to meet the second part of this test so need not submit bills to show that he or she needs all of his or her income to pay his or her monthly expenses and that it would be a hardship for him or her to repay the overpayment.

If the overpayment is less than \$500, it may be waived administratively, regardless of the recipient's ability to repay, unless the recipient is "at fault."

An overpayment will not be waived unless the recipient files a request for waiver of the overpayment. There is no time limit within which an individual must request that an overpayment be waived. Denial of the request for waiver may be appealed. Recovery of the

overpayment should be suspended until a decision is made on the waiver request.

## **Appeals**

Decisions by the Social Security Administration (SSA) regarding eligibility, payment, overpayment, and most other issues affecting SSI may be appealed within 60 days of the adverse decision. SSA provides written notification of its decision and spells out the individual's right to appeal.

The procedures for appealing decisions regarding SSI are generally the same as those regarding Social Security benefits. The SSA appeal procedures are summarized in Chapter VI of this manual.

If an individual is receiving SSI benefits and receives a notice saying that his or her SSI benefits will be terminated, suspended, or reduced, he or she may continue receiving his or her current SSI benefits until SSA makes a redetermined decision regarding his or her eligibility or benefits *if* he or she files an appeal ***within ten days*** of the date he or she receives the notice and his or her income and resources do not exceed the SSI income and resource limits.

If an individual appeals an SSI decision and an appeal hearing is held before an administrative law judge, SSA may pay the individual's travel costs if the individual has to travel more than 75 miles (one way) to attend the hearing.

## **Legal Authority**

Federal Statute: 42 U.S.C §1381 *et seq.*

Federal Regulations: 20 C.F.R. §416 *et seq.*

## **Sources of Additional Information**

U.S. Department of Health and Human Services  
Social Security Administration  
300 N. Greene Street  
Baltimore, MD 21201

Technical information is available by calling the Social Security Administration at 1-800-772-1213 from 8:00 a.m. - 8:00 p.m.

Information is also available on the Internet at [www.ssa.gov](http://www.ssa.gov).